

AMENDED IN ASSEMBLY FEBRUARY 23, 2012

AMENDED IN ASSEMBLY JUNE 29, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 9, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 628

Introduced by Senator Yee

February 18, 2011

An act to ~~amend Sections 4935, 4955, 4955.1, 4955.2, 4956, 4960.2, 4961, 4965, 4966, 4967, and 4969 of, to add Sections~~ *Section 4936 and 4964.5 to, and to add Article 3 (commencing with Section 4950) to Chapter 12 of Division 2 of, the Business and Professions Code, relating to acupuncture.*

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as amended, Yee. Acupuncture: regulation.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

~~This bill would, commencing May 1, 2012, require the board to issue a certificate to practice as a traditional Chinese Medicine traumatologist~~

~~to an applicant who meets certain training and clinical experience requirements and pays a specified fee. The bill would limit the submittal of applications to the period between January 1, 2012, and December 15, 2012, and would prohibit the board from issuing a certificate after December 15, 2012. The bill would require the board to establish the Traumatology Committee within the board with specified duties, including determination of certification standards and evaluation of whether an applicant meets those standards. The bill would set forth procedures for the renewal of an unexpired or expired certificate to perform traditional Chinese Medicine traumatology and would establish specified fees in that regard. The bill would make it a crime to use the title of “certified traditional Chinese Medicine traumatologist” without meeting these certification requirements and to fraudulently buy or sell a certificate for traditional Chinese Medicine traumatology, thereby imposing a state-mandated local program.~~

~~The~~

This bill would authorize a person with a current and valid license to practice acupuncture to use the title of acupuncturist. The bill would authorize such a person to use the title of Doctor of Acupuncture, as specified, only if he or she has met certain educational requirements, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4936 is added to the Business and
- 2 Professions Code, to read:
- 3 4936. (a) A person holding a license as an acupuncturist issued
- 4 by the board may use the title “acupuncturist” or any other words,
- 5 letters, or figures that indicate that the person using the title is a
- 6 licensed acupuncturist. No other person shall be so designated or
- 7 shall use the term licensed or registered acupuncturist.

1 ***(b) A licensed acupuncturist who has received a doctoral degree***
2 ***relating to acupuncture or traditional Asian medicine may do both***
3 ***of the following:***

4 ***(1) In a written communication, use the term Doctor of***
5 ***Acupuncture following the licensee’s name or use the title***
6 ***“Doctor” or the abbreviation “Dr.” preceding the licensee’s name***
7 ***if the licensee’s name is immediately followed by an unabbreviated***
8 ***specification of the applicable doctoral degree held by the licensee.***

9 ***(2) In a spoken communication while engaged in the practice***
10 ***of acupuncture, use the title “doctor” preceding the person’s name***
11 ***if the speaker specifies that he or she is a Doctor of Acupuncture.***

12 ***(c) A doctoral degree described in subdivision (b) shall be***
13 ***granted by an institution that is recognized or approved by an***
14 ***accrediting agency that is recognized by the United States***
15 ***Department of Education.***

16 ***(d) The board shall define, by regulation, the doctoral degrees***
17 ***that are in a field related to acupuncture or traditional Asian***
18 ***medicine for purposes of subdivision (b).***

19 ***(e) An acupuncturist shall not hold himself or herself out as a***
20 ***physician and surgeon to the patient.***

21 ***(f) A licensed acupuncturist or a person who qualifies as a***
22 ***Doctor of Acupuncture shall comply with the provisions of Section***
23 ***680.5.***

24 **~~SECTION 1. Section 4935 of the Business and Professions~~**
25 **~~Code is amended to read:~~**

26 **~~4935. (a) (1) It is a misdemeanor, punishable by a fine of not~~**
27 **~~less than one hundred dollars (\$100) and not more than two~~**
28 **~~thousand five hundred dollars (\$2,500), or by imprisonment in a~~**
29 **~~county jail not exceeding one year, or by both that fine and~~**
30 **~~imprisonment, for any person who does not hold a current and~~**
31 **~~valid license to practice acupuncture under this chapter to hold~~**
32 **~~himself or herself out as practicing or engaging in the practice of~~**
33 **~~acupuncture, or to hold himself or herself out as a certified~~**
34 **~~traditional Chinese Medicine traumatologist or use the title of~~**
35 **~~“certified traditional Chinese Medicine traumatologist” without~~**
36 **~~meeting the requirements of this chapter.~~**

37 **~~(2) It is a misdemeanor, punishable by a fine of not less than~~**
38 **~~one hundred dollars (\$100) and not more than two thousand five~~**
39 **~~hundred dollars (\$2,500), or by imprisonment in a county jail not~~**
40 **~~exceeding one year, or by both that fine and imprisonment, for~~**

1 any person to fraudulently buy, sell, or obtain a license to practice
2 acupuncture or a certificate for traditional Chinese Medicine
3 traumatology, or to violate the provisions of this chapter.

4 (b) Notwithstanding any other provision of law, any person,
5 other than a physician and surgeon, a dentist, or a podiatrist, who
6 is not licensed under this article but is licensed under Division 2
7 (commencing with Section 500), who practices acupuncture
8 involving the application of a needle to the human body, performs
9 any acupuncture technique or method involving the application of
10 a needle to the human body, or directs, manages, or supervises
11 another person in performing acupuncture involving the application
12 of a needle to the human body is guilty of a misdemeanor.

13 (c) A person holds himself or herself out as engaging in the
14 practice of acupuncture by the use of any title or description of
15 services incorporating the words “acupuncture,” “acupuncturist,”
16 “certified acupuncturist,” “licensed acupuncturist,” “Asian
17 medicine,” “oriental medicine,” “Traditional Chinese Medicine,”
18 or any combination of those words, phrases, or abbreviations of
19 those words or phrases, by representing that he or she is trained,
20 experienced, or an expert in the field of acupuncture, Asian
21 medicine, or Chinese medicine, or by representing that he or she
22 is trained, experienced, or an expert in the field of traditional
23 Chinese Medicine traumatology.

24 (d) Subdivision (a) shall not prohibit a person from
25 administering acupuncture treatment as part of his or her
26 educational training if he or she:

27 (1) Is engaged in a course or tutorial program in acupuncture,
28 as provided in this chapter; or

29 (2) Is a graduate of a school of acupuncture approved by the
30 board and participating in a postgraduate review course that does
31 not exceed one year in duration at a school approved by the board.

32 SEC. 2. Section 4936 is added to the Business and Professions
33 Code, to read:

34 4936. Notwithstanding any other provision of law, a person
35 with a current and valid license to practice acupuncture under this
36 chapter may use the title Doctor of Acupuncture only if he or she
37 who has received a Doctorate of Acupuncture and Oriental
38 Medicine Degree, a Doctorate of Acupuncture Degree, or a
39 Doctorate of Oriental Medicine.

1 ~~SEC. 3. Article 3 (commencing with Section 4950) is added~~
2 ~~to Chapter 12 of Division 2 of the Business and Professions Code,~~
3 ~~to read:~~

4
5 Article 3. Traumatologists
6

7 ~~4950. (a) On or before March 1, 2012, the board shall establish~~
8 ~~a Traumatology Committee within the board.~~

9 ~~(b) The committee shall consist of six members composed of~~
10 ~~two representatives each from the clinical settings of traumatology~~
11 ~~and the California Orthopaedic Association and one representative~~
12 ~~each from the Medical Board of California and the California~~
13 ~~Medical Association.~~

14 ~~(c) (1) Subject to subdivision (d), the committee shall meet and~~
15 ~~confer to determine the certification standards, including the level~~
16 ~~of experience and training needed for an individual to qualify for~~
17 ~~traditional Chinese Medicine traumatology certification.~~

18 ~~(2) The committee shall advise the board in developing the~~
19 ~~application form for certification.~~

20 ~~(d) Commencing May 1, 2012, until December 15, 2012, the~~
21 ~~board shall issue a certificate for certified traditional Chinese~~
22 ~~Medicine traumatology to any person who makes an application~~
23 ~~and meets all of the following requirements, as determined by the~~
24 ~~committee pursuant to subdivision (e):~~

25 ~~(1) Is at least 18 years of age.~~

26 ~~(2) Furnishes satisfactory evidence of training and clinical~~
27 ~~experience that meets the standards established by the committee~~
28 ~~and confirmed by the board.~~

29 ~~(3) Is not subject to denial pursuant to Division 1.5 (commencing~~
30 ~~with Section 475).~~

31 ~~(e) The committee shall evaluate whether an applicant meets~~
32 ~~the certification standards, including the level of experience and~~
33 ~~training to sufficiently qualify for the traumatology certification.~~

34 ~~(f) An applicant for traditional Chinese Medicine traumatology~~
35 ~~certification shall, commencing January 1, 2012, until December~~
36 ~~15, 2012, file an application for a certificate for traditional Chinese~~
37 ~~Medicine traumatology in this state. On and after December 15,~~
38 ~~2012, the board shall not issue an initial certificate to any applicant.~~
39 ~~On and after December 15, 2012, the board may issue only a~~
40 ~~renewal of a certificate under this section. An individual who is~~

1 not qualified to receive a certificate under this section, or who fails
2 to apply for certification under this section by December 15, 2012,
3 shall not hold himself or herself out as a certified traditional
4 Chinese Medicine traumatologist pursuant to this section.

5 (g) ~~A certified traditional Chinese Medicine traumatologist,~~
6 ~~when engaging in manipulation techniques to realign the~~
7 ~~musculoskeletal and ligamentous relationships, shall be supervised~~
8 ~~by a physician and surgeon who has completed an orthopaedic~~
9 ~~residency program. The extent of the relationship between a~~
10 ~~traditional Chinese Medicine traumatologist and orthopedic surgeon~~
11 ~~regarding those manipulation techniques shall be determined by~~
12 ~~the advisory committee after the qualifications necessary for~~
13 ~~certification are defined by the committee and adopted by the~~
14 ~~board.~~

15 (h) ~~An applicant for certification as a traditional Chinese~~
16 ~~Medicine traumatologist shall pay an application fee in the amount~~
17 ~~of two hundred dollars (\$200) when submitting his or her~~
18 ~~application to the board.~~

19 (i) ~~A certified traditional Chinese Medicine traumatologist shall~~
20 ~~renew his or her certificate every five years.~~

21 (j) ~~An expired certificate may be renewed at any time within~~
22 ~~three years after its expiration. The holder of the certificate shall~~
23 ~~pay all accrued and unpaid renewal fees, plus a delinquency fee.~~

24 (1) ~~The annual renewal fee shall be one hundred dollars (\$100).~~

25 (2) ~~The delinquency fee shall be twenty-five dollars (\$25).~~

26 (3) ~~The fee for a duplicate or replacement engraved wall~~
27 ~~certificate shall be fifteen dollars (\$15).~~

28 (4) ~~The fee for a duplicate or replacement renewal receipt/pocket~~
29 ~~certificate shall be ten dollars (\$10).~~

30 (k) ~~Moneys received under this section shall be deposited in the~~
31 ~~Acupuncture Fund for purposes of this chapter.~~

32 (l) ~~It is an unfair business practice for any person to hold himself~~
33 ~~or herself out as a certified traditional Chinese Medicine~~
34 ~~traumatologist or use the title of “certified traditional Chinese~~
35 ~~Medicine traumatologist” without meeting the requirements of~~
36 ~~this chapter.~~

37 SEC. 4. ~~Section 4955 of the Business and Professions Code is~~
38 ~~amended to read:~~

39 4955. ~~The board may deny, suspend, or revoke, or impose~~
40 ~~probationary conditions upon, the license of any acupuncturist or~~

1 certificate of any traditional Chinese Medicine traumatologist if
2 he or she is guilty of unprofessional conduct.

3 Unprofessional conduct shall include, but not be limited to, the
4 following:

5 (a) Using or possessing any controlled substance as defined in
6 Division 10 (commencing with Section 11000) of the Health and
7 Safety Code, or dangerous drug or alcoholic beverage to an extent
8 or in a manner dangerous to himself or herself, or to any other
9 person, or to the public, and to an extent that the use impairs his
10 or her ability to engage in the practice of acupuncture or
11 traumatology with safety to the public.

12 (b) Conviction of a crime substantially related to the
13 qualifications, functions, or duties of an acupuncturist or certified
14 traditional Chinese Medicine traumatologist, the record of
15 conviction being conclusive evidence thereof.

16 (c) False or misleading advertising.

17 (d) Aiding or abetting in, or violating or conspiring in, directly
18 or indirectly, the violation of the terms of this chapter or any
19 regulation adopted by the board pursuant to this chapter.

20 (e) Except for good cause, the knowing failure to protect patients
21 by failing to follow infection control guidelines of the board,
22 thereby risking transmission of blood-borne infectious diseases
23 from licensee to patient, from patient to patient, and from patient
24 to licensee. In administering this subdivision, the board shall
25 consider referencing the standards, regulations, and guidelines of
26 the State Department of Health Services developed pursuant to
27 Section 1250.11 of the Health and Safety Code and the standards,
28 regulations, and guidelines pursuant to the California Occupational
29 Safety and Health Act of 1973 (Part 1 (commencing with Section
30 6300) of Division 5 of the Labor Code) for preventing the
31 transmission of HIV, hepatitis B, and other blood-borne pathogens
32 in health care settings. As necessary, the board shall consult with
33 the Medical Board of California, the California Board of Podiatric
34 Medicine, the Dental Board of California, the Board of Registered
35 Nursing, and the Board of Vocational Nursing and Psychiatric
36 Technicians, to encourage appropriate consistency in the
37 implementation of this subdivision.

38 The board shall seek to ensure that licensees are informed of the
39 responsibility of licensees and others to follow infection control
40 guidelines, and of the most recent scientifically recognized

1 safeguards for minimizing the risk of transmission of blood-borne
2 infectious diseases.

3 ~~(f) The use of threats or harassment against any patient or~~
4 ~~licensee for providing evidence in a disciplinary action, other legal~~
5 ~~action, or in an investigation contemplating a disciplinary action~~
6 ~~or other legal action.~~

7 ~~(g) Discharging an employee primarily for attempting to comply~~
8 ~~with the terms of this chapter.~~

9 ~~(h) Disciplinary action taken by any public agency for any act~~
10 ~~substantially related to the qualifications, functions, or duties of~~
11 ~~an acupuncturist, certified traditional Chinese Medicine~~
12 ~~traumatologist, or any professional health care licensee.~~

13 ~~(i) Any action or conduct that would have warranted the denial~~
14 ~~of the acupuncture license or the traumatology certificate.~~

15 ~~(j) The violation of any law or local ordinance on an~~
16 ~~acupuncturist's or certified traditional Chinese Medicine~~
17 ~~traumatologist's business premises by an acupuncturist's or~~
18 ~~certified traditional Chinese Medicine traumatologist's employee~~
19 ~~or a person who is working under the acupuncturist's or certified~~
20 ~~traditional Chinese Medicine traumatologist's professional license~~
21 ~~or business permit, that is substantially related to the qualifications,~~
22 ~~functions, or duties of an acupuncturist or certified traditional~~
23 ~~Chinese Medicine traumatologist. These violations shall subject~~
24 ~~the acupuncturist or certified traditional Chinese Medicine~~
25 ~~traumatologist who employed the individuals, or under whose~~
26 ~~acupuncture license or traumatology certificate the employee is~~
27 ~~working, to disciplinary action.~~

28 ~~(k) The abandonment of a patient by the licensee or certified~~
29 ~~traditional Chinese Medicine traumatologist without written notice~~
30 ~~to the patient that treatment is to be discontinued and before the~~
31 ~~patient has had a reasonable opportunity to secure the services of~~
32 ~~another practitioner.~~

33 ~~(l) The failure to notify the board of the use of any false,~~
34 ~~assumed, or fictitious name other than the name under which he~~
35 ~~or she is licensed as an individual to practice acupuncture or as an~~
36 ~~individual certified in traditional Chinese Medicine traumatology.~~

37 ~~SEC. 5. Section 4955.1 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~4955.1. The board may deny, suspend, revoke, or impose~~
40 ~~probationary conditions upon the license of any acupuncturist or~~

1 ~~certified traditional Chinese Medicine traumatologist if he or she~~
2 ~~is guilty of committing a fraudulent act, including, but not limited~~
3 ~~to, any of the following:~~

4 ~~(a) Securing a license by fraud or deceit.~~

5 ~~(b) Committing a fraudulent or dishonest act as an acupuncturist~~
6 ~~or certified traditional Chinese Medicine traumatologist.~~

7 ~~(c) Committing any act involving dishonesty or corruption with~~
8 ~~respect to the qualifications, functions, or duties of an acupuncturist~~
9 ~~or certified traditional Chinese Medicine traumatologist.~~

10 ~~(d) Altering or modifying the medical record of any person,~~
11 ~~with fraudulent intent, or creating any false medical record.~~

12 ~~(e) Failing to maintain adequate and accurate records relating~~
13 ~~to the provision of services to his or her patients.~~

14 ~~SEC. 6. Section 4955.2 of the Business and Professions Code~~
15 ~~is amended to read:~~

16 ~~4955.2. The board may deny, suspend, revoke, or impose~~
17 ~~probationary conditions upon the license of any acupuncturist or~~
18 ~~certified traditional Chinese Medicine traumatologist if he or she~~
19 ~~is guilty of committing any one of the following:~~

20 ~~(a) Gross negligence.~~

21 ~~(b) Repeated negligent acts.~~

22 ~~(c) Incompetence.~~

23 ~~SEC. 7. Section 4956 of the Business and Professions Code is~~
24 ~~amended to read:~~

25 ~~4956. A plea or verdict of guilty or a conviction following a~~
26 ~~plea of nolo contendere made to a charge that is substantially~~
27 ~~related to the qualifications, functions, or duties of an acupuncturist~~
28 ~~or certified traditional Chinese Medicine traumatologist is deemed~~
29 ~~to be a conviction within the meaning of this chapter.~~

30 ~~The board may order a license suspended or revoked, or may~~
31 ~~deny a license, or may impose probationary conditions upon a~~
32 ~~license, when the time for appeal has elapsed, or the judgment of~~
33 ~~conviction has been affirmed on appeal, or when an order granting~~
34 ~~probation is made suspending the imposition of sentence~~
35 ~~irrespective of a subsequent order under Section 1203.4 of the~~
36 ~~Penal Code allowing the person to withdraw his or her pleas of~~
37 ~~guilty and to enter a plea of not guilty, or setting aside the verdict~~
38 ~~of guilty, or dismissing the accusation, complaint, information, or~~
39 ~~indictment.~~

1 ~~SEC. 8.— Section 4960.2 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~4960.2.— The board in all cases of revocation shall certify the~~
4 ~~fact of the revocation, under the seal of the board, to the business~~
5 ~~licensing entity of the cities or counties in which the license of the~~
6 ~~acupuncturist or certificate of the traditional Chinese Medicine~~
7 ~~traumatologist has been revoked. The record of the revocation~~
8 ~~made by the county or city clerk shall be sufficient evidence of~~
9 ~~the revocation, and of the regularity of all proceedings of the board~~
10 ~~in the matter of the revocation.~~

11 ~~SEC. 9.— Section 4961 of the Business and Professions Code is~~
12 ~~amended to read:~~

13 ~~4961.— (a) Every person who is now or hereafter licensed to~~
14 ~~practice acupuncture or certified in traditional Chinese Medicine~~
15 ~~traumatology in this state shall register, on forms prescribed by~~
16 ~~the board, his or her place of practice, or, if he or she has more~~
17 ~~than one place of practice, all of the places of practice. If the~~
18 ~~licensee or certificate holder has no place of practice, he or she~~
19 ~~shall notify the board of that fact. A person licensed or certified~~
20 ~~by the board shall register within 30 days after the date of his or~~
21 ~~her licensure or certification.~~

22 ~~(b) A licensee or certificate holder shall post his or her license~~
23 ~~or certificate in a conspicuous location in his or her place of~~
24 ~~practice at all times. If an acupuncturist or certified traditional~~
25 ~~Chinese Medicine traumatologist has more than one place of~~
26 ~~practice, he or she shall obtain from the board a duplicate license~~
27 ~~or certificate for each additional location and post the duplicate~~
28 ~~license or certificate at each location.~~

29 ~~(c) Any licensee or certificate holder that changes the location~~
30 ~~of his or her place of practice shall register each change within 30~~
31 ~~days of making that change. In the event a licensee or certificate~~
32 ~~holder fails to notify the board of any change in the address of a~~
33 ~~place of practice within the time prescribed by this section, the~~
34 ~~board may deny renewal of licensure or certification. An applicant~~
35 ~~for renewal of licensure or certification shall specify in his or her~~
36 ~~application whether or not there has been a change in the location~~
37 ~~of his or her place of practice and, if so, the date of that change.~~
38 ~~The board may accept that statement as evidence of the change of~~
39 ~~address.~~

1 ~~SEC. 10. Section 4964.5 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~4964.5. The provisions of this article apply to both acupuncture~~
4 ~~and certified traditional Chinese Medicine traumatologists.~~

5 ~~SEC. 11. Section 4965 of the Business and Professions Code~~
6 ~~is amended to read:~~

7 ~~4965. (a) (1) A license to practice acupuncture issued pursuant~~
8 ~~to this chapter shall expire on the last day of the birth month of~~
9 ~~the licensee during the second year of a two-year term, if not~~
10 ~~renewed.~~

11 ~~(2) The board shall establish and administer a birth date renewal~~
12 ~~program for purposes of this subdivision.~~

13 ~~(3) To renew an unexpired license, the holder shall apply for~~
14 ~~renewal on a form provided by the board and pay the renewal fee~~
15 ~~fixed by the board.~~

16 ~~(b) A certificate for traditional Chinese Medicine traumatology~~
17 ~~issued pursuant to this chapter shall expire five years after the date~~
18 ~~of issuance, if not renewed. To renew an unexpired certificate, the~~
19 ~~holder shall apply for renewal on a form provided by the board~~
20 ~~and pay the renewal fee set forth in Section 4950.~~

21 ~~SEC. 12. Section 4966 of the Business and Professions Code~~
22 ~~is amended to read:~~

23 ~~4966. (a) Except as provided in Section 4969, a license to~~
24 ~~practice acupuncture that has expired may be renewed at any time~~
25 ~~within three years after its expiration by filing an application for~~
26 ~~renewal on a form provided by the board, paying all accrued and~~
27 ~~unpaid renewal fees, and providing proof of completing continuing~~
28 ~~education requirements. If the license is not renewed prior to its~~
29 ~~expiration, the acupuncturist, as a condition precedent to renewal,~~
30 ~~shall also pay the prescribed delinquency fee.~~

31 ~~(b) Except as provided in Section 4969, a certificate for~~
32 ~~traditional Chinese Medicine traumatology that has expired may~~
33 ~~be renewed at any time within three years after its expiration by~~
34 ~~filing an application for renewal on a form provided by the board,~~
35 ~~and paying all accrued and unpaid renewal fees. If the certificate~~
36 ~~is not renewed prior to its expiration, the traditional Chinese~~
37 ~~Medicine traumatologist, as a condition precedent to renewal, shall~~
38 ~~also pay a delinquency fee, to be set in accordance with Section~~
39 ~~163.5.~~

1 ~~(e) Renewal under this section shall be effective on the date on~~
2 ~~which the application is filed, on the date on which the renewal~~
3 ~~fee is paid, or on the date the delinquency fee is paid, whichever~~
4 ~~occurs last. If so renewed, the license or certificate shall continue~~
5 ~~in effect through the expiration date provided in Section 4965,~~
6 ~~after the effective date of the renewal, when it shall expire and~~
7 ~~become invalid if it is not again renewed.~~

8 ~~SEC. 13. Section 4967 of the Business and Professions Code~~
9 ~~is amended to read:~~

10 ~~4967. A person who fails to renew his or her license or~~
11 ~~certificate within three years after its expiration may not renew it,~~
12 ~~and it may not be restored, reissued, or reinstated thereafter, but~~
13 ~~that person may apply for and obtain a new license or certificate~~
14 ~~if he or she meets all of the following requirements:~~

15 ~~(a) Has not committed any acts or crimes constituting grounds~~
16 ~~for denial of licensure or certification under Division 1.5~~
17 ~~(commencing with Section 475).~~

18 ~~(b) If an acupuncturist takes and passes the examination, if any,~~
19 ~~which would be required of him or her if an initial application for~~
20 ~~licensure was being made, or, if an acupuncturist or certified~~
21 ~~traditional Chinese Medicine traumatologist, otherwise establishes~~
22 ~~to the satisfaction of the board that, with due regard for the public~~
23 ~~interest, he or she is qualified to practice as an acupuncturist or~~
24 ~~certified traditional Chinese Medicine traumatologist.~~

25 ~~(c) Pays all of the fees that would be required if an initial~~
26 ~~application for licensure or certification was being made.~~

27 ~~(d) The board may provide for the waiver or refund of all or~~
28 ~~any part of an examination fee in those cases in which a license~~
29 ~~to practice acupuncture is issued without an examination pursuant~~
30 ~~to this section.~~

31 ~~SEC. 14. Section 4969 of the Business and Professions Code~~
32 ~~is amended to read:~~

33 ~~4969. (a) A suspended license or certificate is subject to~~
34 ~~expiration and shall be renewed as provided in this article, but the~~
35 ~~renewal does not entitle the acupuncturist or certified traditional~~
36 ~~Chinese Medicine traumatologist, while the license or certificate~~
37 ~~remains suspended, and until it is reinstated, to engage in the~~
38 ~~practice of acupuncture or traditional Chinese Medicine~~
39 ~~traumatology, or in any other activity or conduct in violation of~~

1 the order or judgment by which the license or certificate was
2 suspended.

3 ~~(b) A revoked license or certificate is subject to expiration as~~
4 ~~provided in this article, but it may not be renewed. If it is reinstated~~
5 ~~after its expiration, the former licensee or certificate holder, as a~~
6 ~~condition to reinstatement, shall pay a reinstatement fee in an~~
7 ~~amount equal to the renewal fee in effect on the last regular renewal~~
8 ~~date before the date on which the license or certificate was~~
9 ~~reinstated, plus the delinquency fee, if any, accrued at the time of~~
10 ~~its expiration.~~

11 ~~SEC. 15.~~

12 *SEC. 2.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.